

Appl. No. 10/087,697
Reply to Office Action of July 28, 2005

Remarks

Introduction

This is submitted in response to the final office action mailed on July 28, 2005. Claims 2-4, 6-16, 18-25, and 28, 29, and 31-33 stand rejected. Applicant requests reconsideration of the Examiner's rejection in light of the following remarks. No amendments to the application are presently being made.

Claims 2-4, 6-16, 18-25, 28-29, and 31-33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kennedy et al. (U.S. Patent No. 6,523,954; hereinafter Kennedy) in view of Peifer et al. (U.S. Patent No. 6,112,224; hereinafter Peifer), and further in view of Lloyd et al. (U.S. Patent No. 6,080,106; hereinafter Lloyd).

Applicant traverses the rejection and requests reconsideration of the Examiner's rejections in light of the following remarks.

The present invention relates to a telemedicine system comprising a remote exam module, a diagnostic center and a communications link enabling substantially real-time interactive communication between an eye care practitioner, for example, a doctor, located at the diagnostic center, and a patient located at the remote exam module. The communications link is effective to enable substantially real-time interaction directly between an eye care practitioner located at the diagnostic center and a patient located at the remote exam module. In the presently claimed embodiments, there is provided a direct communication link between a patient being examined at the remote exam module and a doctor at a diagnostic center that is remote from the exam module.

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The presently claimed invention is substantially different from prior art systems which require one or more intermediate links or stages for compiling or otherwise processing information retrieved from an exam module before the information is eventually used by an eye care practitioner or doctor to render an opinion or make a diagnosis. In such prior systems, the eye care practitioner is located remote from the center where the database maintains eye exam information.

Applicant maintains and resubmits that Kennedy does not disclose, teach, or suggest the present invention. For example, Kennedy does not disclose, teach or even suggest a system comprising a diagnostic center remotely located from the at least one remote exam module and comprising a database and an exam console for displaying information to an eye care practitioner located at the diagnostic center, as recited in the present claims.

Kennedy discloses a system and method for screening an eye that includes a stage for screening an eye and recording information relating thereto (somewhat analogous to the exam module of the present system). Kennedy further teaches a central analysis facility in communication with the eye screening stage (hereinafter usually referred to as "exam module" for the sake of consistency with the terminology used in the present claims) for receiving, collecting and processing the data recorded at the screening stage. Further, Kennedy includes readers, remote in time and space from the central analysis facility. It is these remote readers who receive the data from the central analysis facility database and analyze the data with the goal of providing a professional opinion or diagnosis

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thereon. The remote reader of Kennedy, being the person who renders an opinion, can be analogous to the eye care practitioner of the present invention. In the Kennedy system, diagnoses are made regarding the eye only after the data has been processed at the central analysis facility, and in a location remote from the central analysis facility. Therefore the Examiner is again urged to consider that in the Kennedy system, unlike the present invention, the reader is remote, in terms of both time and space, from the central analysis facility where eye exam data are collected and processed. This is a key distinction between the Kennedy system and the systems of the present invention.

Moreover, unlike the Kennedy system, the system of the present invention provides a remote exam module, a diagnostic center including a database console for displaying transmitted information from the exam module, and a communication link effective in enabling substantially real-time interactive communication between an eye care practitioner located at the diagnostic center and a patient located at the exam module.

In the final office action, the Examiner states that it may be of use to explore the meaning of the term "remote." Applicant submits that in the present systems, the eye care practitioner and exam console accessed thereby are both physically located at the diagnostic center which is in direct, real-time communication with the eye exam being given to a patient. Unlike Kennedy, the eye care practitioner and console in the present invention are not "remote" from a diagnostic center collecting, processing and receiving the eye exam data. Even in the broadest interpretation of the term "remote", the

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eye care practitioner cannot reasonably be considered "remote" from the diagnostic center in the presently claimed invention.

Applicant provides herewith standard dictionary definitions of the terms "at" and "remote" in order to further emphasize the distinction between the presently claimed systems and the systems in Kennedy. In accordance with the present claims, the systems provide for real time interactive communication between an eye care practitioner located at the diagnostic center and a patient at the exam module. The diagnostic center includes an exam console for displaying information to the eye care practitioner located at the diagnostic center. Thus, the eye care practitioner is present at the diagnostic center which is in real-time communication with the exam module. (See Merriam Webster definition of "at" provided herein, which states that "at" is used as a function word to indicate presence in, on, or near.)

The Examiner's characterization of the terms "at" and "remote" is inconsistent with the well-known definitions of the terms, and is inconsistent with the meanings of the terms as used in the present claims as supported by the specification, and inconsistent with Kennedy. It cannot reasonably be interpreted that the eye care practitioner and exam console in the presently claimed invention are remote from the diagnostic center, since the present claims recite that the eye care practitioner is located "at" the diagnostic center. See Merriam Webster definition of "remote" provided herein, which states that "remote" is defined as "separated by"... "far removed in space, time and relation", and "controlled indirectly or from a distance.") Similarly, it cannot reasonably be interpreted that Kennedy discloses, teaches or even suggests a reader located at the central analysis facility since Kennedy clearly

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states, throughout the disclosure, that the reader is remote from the central analysis facility, which is clearly defined to be distinct from the reader being "at" the central analysis facility, as described herein.

In other words, in the Kennedy system, the reader who performs a diagnosis of the eye exam data is remote from, and at least twice removed from, the exam module. In contrast, in the present invention as claimed, the eye care practitioner who performs a diagnosis is at the diagnostic center and only once removed from the exam module.

In summary, applicant submits that the Examiner's rejection of the claims based on the argument that the location of an eye care practitioner in the presently claimed system can be considered to be "remote" from the diagnostic center is clearly inconsistent with the well-know definition of the term "at" and clearly inconsistent with the term "at" as used in the present claims and as supported by the specification.

Further, none of the other references cited by the Examiner supply the deficiencies apparent in Kennedy to make the present invention obvious.

Briefly, Peifer does not disclose, teach or suggest the present invention. For example, Peifer does not disclose, teach or even suggest a remote exam module, a diagnostic center, and a communications link enabling substantially real-time interactive communication between an eye care practitioner, for example, a doctor, located at the diagnostic center, and a patient located at the remote exam module.

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Peifer discloses a patient monitoring system for use in telemedicine. The monitoring system disclosed by Peifer includes monitoring devices, such as blood pressure devices, thermometers, pulse oximetry devices, electrocardiograms, scales, and stethoscopes (column 4, lines 34-38). The monitoring system of Peifer includes monitoring stations remotely located from the monitoring devices. Importantly, the monitoring stations only permit a health care professional to receive information from the patient and to monitor a patient. Peifer does not even suggest a communications link enabling interactive communication between an eye care practitioner located at a diagnostic center and a patient located at a remote eye exam module as recited in the present claims.

Further, Lloyd does not disclose, teach or suggest the present invention. For example, Lloyd does not disclose, teach, suggest, or supply the deficiencies apparent in either Kennedy or Peifer, as described herein.

Similar to Peifer, Lloyd discloses a patient monitoring system. The Lloyd system collects and transfers data from a cardiac patient to a remote monitoring system. Lloyd emphasizes that the system is particularly useful in remote monitoring of cardiac associated diseases. Lloyd does not even suggest an exam module configured to examine an eye of a patient, let alone a diagnostic center for directing the examination of an eye as recited in the present claims.

In view of the above, applicant submits that claims 2-4, 6-16, 18-25, 28-29, and 31-33 are unobvious from and patentable over Kennedy, Peifer and Lloyd, and any combination thereof under 35 U.S.C. 103(a).


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Furthermore, each of the present dependent claims is separately patentable over the prior art. For example, none of the prior art, taken singly or in any combination, discloses, teaches or even suggests the additional feature or features recited in any of the dependent claims. Therefore, applicant submits that all of the present claims are separately patentable over the prior art.

In conclusion, applicant has shown that the present claims are unobvious from and patentable over Kennedy, Peifer and Lloyd, taken alone or in any combination. In view of the above, applicant urges the Examiner to reconsider the rejection of the claims and to pass the above-identified application to issuance at an early date. Should any matters remain unresolved, the Examiner is requested to call (collect) applicant's attorney at the telephone number given below.

Respectfully submitted,

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